

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CHARLIE THORNTON,)	
Plaintiff,)	
)	CIVIL ACTION NO.: 05-10210-RGS
v.)	
)	
UNITED PARCEL SERVICE, INC.,)	
Defendant.)	

PLAINTIFF'S PROPOSED VOIR DIRE

The Plaintiff hereby proposes that the jury be asked the following questions. In conjunction with this questioning, the Plaintiff requests that the following statement be read to the jury.

BRIEF STATEMENT OF THE FACTS

The Plaintiff in this case, Charlie Thornton, was employed by U.P.S. from 1968 to 2002. He alleges that, beginning in 2000, the Defendant U.P.S. failed to accommodate his disabilities. He also alleges that the decision not to accommodate was due U.P.S.' maintenance and application of an unlawful employment practice requiring its employees to be "100% healed" or to have a "100% release" from their doctors in order to work at U.P.S. The Plaintiff alleges that, as a result of the Defendant's failure to accommodate, he was forced to retire in 2002 and that he has suffered lost wages and emotional distress.

PROPOSED VOIR DIRE QUESTIONS

1. Do you understand that you will be required to apply the burden of proof for a civil case, as the Court will instruct you at the end of the trial, and that plaintiff will not be required to prove his claims "beyond a reasonable doubt?"
2. Do you understand that the burden in a civil case is "preponderance of the evidence" which means that the Plaintiff must only prove that a particular fact or claim is more likely true than not.
3. Have you ever been a plaintiff or a defendant in a civil case? If so, what was the nature of the case? Did it go to trial or was it settled out of court? Is there anything about that prior experience with the legal system that would make it difficult for you to sit as a fair and impartial juror in this case?

4. Have you ever been a witness in a civil trial before? Did you give a deposition or testify in court or both? What was the nature of the case? Is there anything about that prior experience as a witness in a civil case that would make it difficult for you to sit as a fair and impartial juror in this case?
5. Other than being a litigant or a witness in a case, have you had what you would describe as a “bad experience” with the legal system that you believe would make it difficult for you to sit as a fair and impartial juror in this case?
6. Have you (or member of your immediate family) ever made a claim against another person, firm or corporation, for money damages - even if the claim did not end up with a lawsuit being filed (this includes automobile accidents, slip and fall, product liability claims, worker’s compensation claims, and similar types of claims), wherein you sought money damages or other civil relief? If so, was there anything about your experience that in any way would prevent you from giving either party a fair trial?
7. Are you now or have you ever been a member of a labor union? Do you have any feelings about unions which would make it difficult for you to be fair and impartial?
8. Have you ever pursued a grievance against an employer? Have you ever testified in a grievance proceeding? If so, was there anything about your experience that in any way would prevent you from giving either party a fair trial?
9. Have you (or household member) ever been employed at U.P.S. or a related industry? Is there anything about that prior experience that would make it difficult for you to sit as a fair and impartial juror in this case?
10. This case is about an injured individual who claims that U.P.S. did not make reasonable accommodations for his disability pursuant to an unwritten company policy. Is there anything about these allegations which would make it difficult for you to be fair and impartial?
11. Do you have feelings about the Americans with Disabilities Act or disabled people in general which would make it difficult for you to be fair and impartial in this case?
12. Do you have any feelings about employees who get injured on the job? Do you believe that employees often exaggerate injuries to get out of work?
13. Have you or anyone in your immediate family owned your own business? Is there anything about that prior experience that would make you favor one side over the other?

14. Have you had, as a major job responsibility, the supervising of employees (e.g., issue written warnings, put employees on probation, suspend employees) as part of your job? Is there anything about that prior experience that would make you favor one side over the other?
15. Do you believe in a person's right to file suit against an employer? Do you believe you should never sue an employer? Do you believe that an employer's management should not have to obey laws prohibiting discrimination?
16. Do you believe in, and agree with, our civil justice system which allows a person to bring a dispute to a group of citizens such as you to resolve by jury trial?
17. Do you believe or have you ever said that there are too many frivolous lawsuits or that most lawsuits are frivolous?
18. Do you have strong feelings about lawsuits such that it would be difficult for you to be fair and objective?
19. If you (or a member of your family) were injured emotionally, physically, or financially as a result of someone else's wrongdoing, would you consider seeing a lawyer or bringing a lawsuit? Would you never seek out a lawyer, no matter what?
20. Do you agree that each case - in particular this case - should be judged on its own merit, and cannot be influenced by your opinion or someone else's opinion about a different lawsuit that you might have heard or read about?
21. Have you heard of an award of damages that you felt was excessive or too high? Have you ever personally known someone who received a jury verdict that you felt was excessive? Have you ever heard of a jury verdict you felt was too low?
22. Do you have negative feelings or opinions about people who bring discrimination lawsuits - before you have heard any evidence in this case? Do you believe discrimination does not exist, that it's been eradicated? Do you believe that employees often sue for discrimination to cover up their own inadequacies?
23. Do you believe that a corporation should be held accountable if the evidence supports a finding that management of a corporation discriminated against an employee because of disability?
24. Do you believe that complying with anti-discrimination laws causes undue hardship on management of a company, or interferes with the company's ability to do its work? Do you believe that obeying anti-discrimination laws hampers our country's competitiveness in the global markets?

25. Do you have bad feelings or opinions about “trial lawyers” that would interfere with your ability to be completely fair?
26. Have you, or any member of your immediate family, ever been accused of discriminating against another person on the job (or in any other setting - e.g. housing, public accommodations) or of failing to accommodate a person’s disability?
27. Have you worked in the Personnel Department or Human Resources Department of an employer? Is there anything in that experience which would in any way affect your ability to sit as a fair and impartial juror in the case? Considering your background, can you sit in judgment and potentially render a verdict against a corporation and in favor of the employee? Would you say that you might have a tendency to lean toward management’s or the corporation’s point of view in a case involving an employment dispute?
28. Do you believe that just because a company has a written policy against disability discrimination, that it means the company always follows it and that there is never any discrimination? In other words, do you believe that if a company has written policies and posters prohibiting discrimination, then the company can never be liable for discrimination in the workplace?
29. If you determined that U.P.S. acted “with malice or with reckless indifference” to the Plaintiff’s rights, would you be willing to award punitive damages?
30. Do you work for or are you a member of any business trade association, Local Chamber of Commerce, National Association of Manufacturers?
31. Have you been employed at a job that required adjusting or analyzing claims for money damages, or worked in the insurance industry, law enforcement, engineering, computer technology, and/or health/medicine?
32. Do you know of any other reasons or matters that have not been brought up that would cause you to be a person who should not be a juror in this case?

Respectfully Submitted,
Charlie Thornton
By his attorneys

DATED: February 4, 2008

//s// Michael Tumposky
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CERTIFICATE OF SERVICE

I, Michael Tumposky, hereby certify that, on this the 4th day of February, 2008, I served a copy of this document, where unable to do so electronically, by first-class mail on all counsel of record in this matter.

//s// Michael Tumposky
Michael Tumposky